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15 Attorneys for Plaintiffs
16 TRI-VALLEY CARES, MARYLIA KELLEY,
17 and JANIS KATE TURNER

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

29 TRI-VALLEY CARES, MARYLIA
30 KELLEY, and JANIS KATE TURNER,
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32 Plaintiffs,

33 v.

34 UNITED STATES DEPARTMENT OF
35 ENERGY, NATIONAL NUCLEAR
36 SECURITY ADMINISTRATION, and
37 LAWRENCE LIVERMORE NATIONAL
38 LABORATORY,
39
40 Defendants.

Case No.: 08-cv-1372-SBA

**STIPULATION AND [PROPOSED]
ORDER SETTING BRIEFING
SCHEDULE**

1 Plaintiffs Tri-Valley CAREs, Marylia Kelley, and Janis Kate Turner (“Plaintiffs”) and
2 defendants United States Department of Energy, National Nuclear Security Administration, and
3 Lawrence Livermore National Laboratory (“Defendants”), by and through their respective
4 counsel, hereby stipulate as follows:

5 WHEREAS, on March 10, 2008, Plaintiffs filed the Complaint for Declaratory,
6 Mandamus, and Injunctive Relief and the Motion for Preliminary Injunction, challenging
7 Defendant’s compliance with the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347,
8 with regard to the construction and operation of a Biosafety Level 3 facility at Lawrence
9 Livermore National Laboratory in Livermore, California.

10 WHEREAS, the Court issued an order denying Plaintiffs’ Motion for Preliminary
11 Injunction on February 9, 2009; and

12 WHEREAS, Plaintiffs filed the Amended Complaint for Declaratory, Mandamus, and
13 Injunctive Relief on March 20, 2009, and Defendants’ filed the Answer to Plaintiffs’ Amended
14 Complaint on April 3, 2009; and

15 WHEREAS, Plaintiffs and Defendants desire to set a briefing schedule for concurrent
16 cross-motions for summary judgment;

17 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Plaintiffs and
18 Defendants, through their respective counsel of record, as follows:

19 1. Plaintiffs shall submit a letter to Defendants identifying any issues relating to the
20 adequacy of the Administrative Record currently before the Court for the adjudication of the
21 claims newly raised in Plaintiffs’ Amended Complaint no later than May 29, 2009.

22 2. Defendants shall respond to Plaintiffs’ letter regarding the content of the
23 Administrative Record no later than June 12, 2009.

24 3. The parties shall attempt to informally resolve any issues relating to the content of the
25 Administrative Record. If informal efforts fail, Plaintiffs shall file a motion to complete or
26 supplement the Administrative Record no later than June 26, 2009.

27 4. Defendants shall designate and produce to Plaintiffs any agreed upon additions to the
28 Administrative Record no later than July 3, 2009. Alternatively, if there is a need to litigate an

1 issue relating to the content of the Administrative Record pursuant to Paragraph 3 above, then
2 Defendants shall designate and produce any required additions to the Administrative Record
3 within fifteen (15) days of the Court's resolution of the issue.

4 5. The parties shall file concurrent cross-motions for summary judgment no later than
5 thirty (30) days after the designation and production of any additions to the Administrative
6 Record required under Paragraph 4, and concurrent responses no later than fifteen (15) days
7 thereafter.

8 6. The foregoing agreement is not intended, and may not be cited by any party, as
9 admission of any issue of fact or law in this or any other judicial or administrative proceeding.

10
11 Dated this 12th day of May, 2009

12 /s/ Robert J. Schwartz

13 Robert J. Schwartz
14 Steven Sugarman

15 Attorneys for Plaintiffs

16 /s/ Barclay T. Samford

17 Barclay T. Samford

18 Attorney for Defendants
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DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from Barclay T. Samford.

Dated this 12th day of May, 2009

/s/ Robert J. Schwartz
Robert J. Schwartz

Attorney for Plaintiffs

~~PROPOSED~~ ORDER

1
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16 thirty (30) days after the designation and production of any additions to the Administrative
17 Record required under Paragraph 4, and concurrent responses no later than fifteen (15) days
18 thereafter.

19 IT IS SO ORDERED.

20
21 Dated: 5/19/09


Saundra Brown Armstrong
United States District Judge